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# HOUSE BILL No. 1287

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-14.5; IC 8-20-1-28.

**Synopsis:** Tree trimming by utilities. Requires an electric utility to follow the standards of the American National Standards Institute in performing any tree cutting activity. Requires an electric utility to adopt dispute resolution procedures for property owners affected by the utility's tree cutting activity. Requires that the procedures allow affected property owners to appeal any resolution reached to the utility regulatory commission. Requires a utility to give at least 21 days notice of planned tree cutting activity to: (1) the county or municipal executive of the area where the activity will occur; and (2) affected property owners. Prohibits a utility from performing tree cutting activity while a dispute or appeal is pending. Allows a utility to perform tree cutting activity without giving notice or while a dispute or appeal is pending if the activity is necessary to restore service in an emergency.

**Effective:** July 1, 2002.

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January 14, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE BILL No. 1287

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 8-1-14.5 IS ADDED TO THE INDIANA CODE  
2       AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3       JULY 1, 2002]:

4       **Chapter 14.5. Tree Cutting Activity by Electric Utilities**

5       **Sec. 1. (a) As used in this chapter, "affected property owner"**  
6       **means the record owner of real property on which a utility plans**  
7       **to perform tree cutting activity.**

8       **(b) The term does not include a property owner that is a**  
9       **governmental unit.**

10       **Sec. 2. As used in this chapter, "tree cutting activity" means the**  
11       **cutting down and removal of one (1) or more trees.**

12       **Sec. 3. (a) As used in this chapter, "utility" refers to a public or**  
13       **municipally owned electric utility.**

14       **(b) The term includes a corporation formed under IC 8-1-13.**

15       **Sec. 4. In performing any tree cutting activity, a utility shall**  
16       **follow the tree care and maintenance standard practices set forth**  
17       **by the American National Standards Institute (ANSI).**



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1       Sec. 5. (a) Not later than September 1, 2002, a utility shall  
2       establish written policies:

3       (1) providing dispute resolution procedures for affected  
4       property owners; and

5       (2) describing other rights and remedies, if any, that the  
6       utility provides to affected property owners.

7       (b) The policies required under subsection (a)(1) must provide  
8       that an affected property owner is entitled to appeal to the  
9       commission any resolution of a case reached through the utility's  
10      dispute resolution procedures.

11      (c) Not later than December 1, 2002, a utility shall make the  
12      policies required under subsection (a) available to the public  
13      through the following means:

14      (1) A written copy of the policies shall be kept on file and  
15      made open to public inspection in every station or office of the  
16      utility where payments may be made by customers.

17      (2) A written copy of the policies shall be kept on file as a  
18      public record in the office of the commission.

19      (3) The policies shall be available on a publicly accessible web  
20      site of the utility.

21      (4) The policies shall be available through an option to a caller  
22      of a toll free telephone number established by the utility. The  
23      toll free telephone number required under this subdivision  
24      must also provide an option allowing the caller to speak with  
25      a representative of the utility.

26      Sec. 6. (a) Except as provided in section 9 of this chapter, not  
27      more than ninety (90) days before or less than twenty-one (21) days  
28      before performing any tree cutting activity planned to occur after  
29      December 31, 2002, a utility shall send notice by United States mail  
30      of the planned tree cutting activity to the following:

31      (1) The municipal executive of a municipality in which any  
32      part of the tree cutting activity will occur.

33      (2) If any part of the tree cutting activity will occur in an  
34      unincorporated area of a county, the county executive of the  
35      county.

36      (b) The notice required in subsection (a) must include:

37      (1) maps;

38      (2) a description by street address, if any; or

39      (3) another common description;

40      of the area to be affected by the tree cutting activity. The municipal  
41      or county executive shall keep on file and make open for public  
42      inspection the materials received under this subsection.

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1        **Sec. 7. (a) Except as provided in section 9 of this chapter, not**  
 2        **more than ninety (90) days before or less than twenty-one (21) days**  
 3        **before performing any tree cutting activity planned to occur after**  
 4        **December 31, 2002, a utility shall provide the following notice of**  
 5        **the planned tree cutting activity to affected property owners:**

6        **(1) Notice by publication in one (1) newspaper of general**  
 7        **circulation in the municipality or county where the tree**  
 8        **cutting activity will occur. The notice required by this**  
 9        **subdivision must include a description by street address, if**  
 10       **any, or other common description of the area to be affected by**  
 11       **the tree cutting activity.**

12       **(2) Notice by United States mail to each affected property**  
 13       **owner. The notice required by this subdivision must include**  
 14       **the following:**

15       **(A) A statement of the tree cutting activity planned.**

16       **(B) A statement that the written policies required under**  
 17       **section 5(a) of this chapter are available for public**  
 18       **inspection in the public offices of the utility and the office**  
 19       **of the commission, as required under section 5(c) of this**  
 20       **chapter.**

21       **(C) The web site address and toll free telephone number**  
 22       **required under section 5(c) of this chapter.**

23       **(D) A statement that an affected property owner may**  
 24       **appeal the planned tree cutting activity through the**  
 25       **dispute resolution procedures of the utility. The statement**  
 26       **required under this clause must inform the affected**  
 27       **property owner of the right to appeal to the commission**  
 28       **any resolution reached through the utility's procedures.**

29       **(E) The toll free telephone number of the office of utility**  
 30       **consumer counselor.**

31       **(F) A statement that maps, a description by street address,**  
 32       **or another common description of the affected area is**  
 33       **available for public inspection in the office of the county or**  
 34       **municipal executive, as required under section 6(b) of this**  
 35       **chapter.**

36       **(b) The duty of a utility to provide notice under subsection (a)(2)**  
 37       **requires the utility to notify only affected property owners. If a**  
 38       **person other than the affected property owner resides on an**  
 39       **affected parcel of land, it is the responsibility of the affected**  
 40       **property owner to notify the resident of the planned tree cutting**  
 41       **activity. A utility does not have a duty to extend any rights,**  
 42       **remedies, or policies established under section 5 of this chapter to**

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a resident who is not an affected property owner.

**Sec. 8. (a)** If an affected property owner wishes to appeal the planned tree cutting activity described in the notice required under section 7(a)(2) of this chapter, the affected property owner must initiate the dispute resolution procedures provided by the utility not later than fourteen (14) days after receiving the notice.

**(b)** Except as provided in section 9 of this chapter, if an affected property owner has initiated dispute resolution procedures under subsection (a), a utility may not perform any tree cutting activity on the affected property owner's property while the dispute resolution procedures are pending. If the affected property owner wishes to appeal the resolution of the case reached through the utility's dispute resolution procedures, the affected property owner must:

**(1)** initiate an appeal with the commission; and

**(2)** notify the utility of the appeal;

not later than ten (10) days after the date of the case's resolution. If the utility does not receive notice of an appeal within the time prescribed in this subsection, the utility may begin the planned tree cutting activity, subject to any specifications or limitations reached through the dispute resolution procedures.

**(c)** Except as provided in section 9 of this chapter, if a utility receives notice of an appeal to the commission within the time prescribed in subsection (b), a utility may not perform any tree cutting activity on the affected property owner's property while the appeal is pending.

**Sec. 9.** A utility is exempt from:

**(1)** the notice requirements set forth in sections 6 and 7 of this chapter; and

**(2)** the prohibition against performing tree cutting activity during a pending dispute or appeal set forth in section 8 of this chapter;

if the utility performs tree cutting activity that is necessary to restore reliable electric service in an emergency, as determined by the commission.

**Sec. 10.** The commission has the sole authority to hear and determine complaints that a utility has failed to comply with this chapter.

SECTION 2. IC 8-20-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 28. Public and municipally owned utilities are authorized to construct, operate, and maintain their poles, facilities, appliances, and fixtures upon, along,



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1 under, and across any of the public roads, highways, and waters outside  
2 of municipalities, as long as they do not interfere with the ordinary and  
3 normal public use of the roadway, as defined in IC 9-13-2-157.  
4 However, the utility shall review its plans with the county executive  
5 before locating the pole, facility, appliance, or fixture. **Subject to the**  
6 **requirements of IC 8-1-14.5**, the utility may trim any tree along the  
7 road or highway, but may not cut down and remove the tree without the  
8 consent of the abutting property owners, unless the cutting or removal  
9 is required by rule or order of the Indiana utility regulatory  
10 commission. The utility may not locate a pole where it interferes with  
11 the ingress or egress from adjoining land.

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